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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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FILE: B-182076

DATE: FEB 5 1975

MATTER OF: Voucher of Duncan A. McDonell

**DIGEST:** Where there is no clear local custom in usual sense of the term as to who pays estate revenue and documentary stamps on purchase of residence at new station incident to change of official duty station, otherwise allowable item may be paid the buyer in accordance with terms of sales contract wherein seller and buyer agreed to split costs and the record shows that in majority of cases handled by HUD costs of closing are split.

This claim presents the question whether certain State revenue stamps are allowable relocation expenses under Federal Property Management Regulations (FPMR) 101-7, section 2-6.2(a) of the Federal Travel Regulations, when the local custom as to whom they are chargeable is in a state of flux.

The matter was raised by the voucher of Mr. Duncan A. McDonell for reimbursement of expenses incident to the purchase of a residence in Orange Park, Florida, due to a transfer of duty station. The items in question are Florida revenue stamps and documentary stamps on the note and deed. Under the above-mentioned regulation, certain expenses are reimbursable if they are customarily paid by the purchaser, in this case, and do not exceed amounts customarily paid.

The local Housing and Urban Development office advises:

"Until recently it has been customary for the seller to pay all of the closing costs. There is no set rule and the determination is made by the terms of the sales contract. It appears that the custom is rapidly changing, and the seller is able to dictate the terms rather than the buyer. At present, the majority of cases we handle are where each pays a part of the cost."

In Mr. McDonell's case the sales contract provided that the buyer would pay \$800 towards closing costs (total of \$1,614.45) plus prepay items and the seller would pay all closing costs in excess of \$800. In view of the changes in custom as to who pays what amount of closing

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costs, we are queried whether it would be acceptable to allow reimbursement in accordance with the terms of the sales contract.

In view of the provision of FPMR 101-7, section 2-6.2(d), there is no doubt concerning the questioned items being allowable expenses if customarily paid by the purchaser at the new station. The determination of the "custom" only goes to decide by whom they are payable. In the face of HUD's statement that the locality is at this time devoid of custom in the usual sense, we must assume that the parties negotiated the closing costs in good faith. Therefore, consistent with the terms of sales contract and the indication that a splitting of costs by contract is occurring in the area in the majority of cases, payment may be made in accordance with its terms. Therefore, the voucher may be paid in the amount of \$174.25 if otherwise proper.

E. F. KELLEN

Deputy Comptroller General  
of the United States